Appl. No. 10/725,110
Reply to Office Action of May 29, 2007

Response under 37 CFR §1.116 expedited procedure . Examining Group: 2109 (MPEP 714.13)

REMARKS

Claims 1–11 are pending in the application. These claims were rejected as follows:

Claims / Section	35 U.S.C. Sec.	References / Notes
10	§101	• Non-statutory subject matter (computer program)
1–5 & 7–11	§102(b) Anticipation	• Dutcher (U.S. Patent No. 6,021,496).
6	§103(a) Obviousness	• Dutcher (U.S. Patent No. 6,021,496); and • Win (U.S. Patent No. 6,161,139).

5   Applicants thank the Examiner and his supervisor for conducting a telephone interview with the Applicants' representative on June 28, 2007, and the helpful discussion provided therein. Applicants are providing below a response to the last office action as well as the points of distinction raised during the interview.

10   Applicants' use of reference characters below is for illustrative purposes only and is not intended to be limiting in nature unless explicitly indicated.

35 U.S.C. §101, CLAIM 10 NON-STATUTORY SUBJECT MATTER

1. Applicants have amended claim 10 to clarify that the claim early comprises statutory subject matter.

15   In the OA, on p. 2, the Examiner rejected claim 10 as being directed to non-statutory subject matter, namely, a computer program.

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Although the prior amendment identified a computer memory element that held the software modules, the present amendment makes clear that the subject matter of claim 10 includes a computer and its associated memory.

As discussed in MPEP §2106.01 (and *In re Warmerdam*, 33 F.3d 1354,

5   1360–61 (Fed. Cir. 1994)):

> When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of
> 10   technology permits the function of the descriptive material to be realized.

In claim 10, the computer-readable medium is the memory of the computer, and the software modules/algorithms stored on this medium provides the structural and functional interrelationship to the medium to make it statutory

15   subject matter.

Support for this amendment can be found in paragraphs 0085–0086. Applicants respectfully request that the 35 U.S.C. §101 rejection be withdrawn from the application.

35 U.S.C. §102(b), CLAIMS 1–5 & 7–11 ANTICIPATION BY DUTCHER

20   *2. Dutcher fails to teach or suggest the last element of the independent claims: the method or function being independent of restarting the operating system or the application program.*

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In the OA, on pp. 2–5, the Examiner rejected independent claim 1 as being

anticipated by Dutcher and indicated how Dutcher was being read on each of the

elements of claim 1.

Given that the primary point of distinction for the present invention can be

5   found in the last claimed element, Applicants will focus their analysis on this

element. With regard to this element, the Examiner stated, on pp. 4–5:

> providing access, depending on the defined access
> rights, for at least one of the application program and
> sensitive data" (i.e. "Thus, according to a primary goal
> of the present invention, the homogeneous NT client-
> server environment is uncoupled so that a user of a
> Windows NT client (by way of example only) may be
> authenticated by a nonnative server. With respect to
> authentication of the Windows NT client, the client-
> server environment is "heterogeneous." Authentication
> at the client gives the user access to resources on the
> client system, and when this is done via an account
> definition held at a server, it also gives the user
> access to resources at the server network via a single
> logon.
>
> The present invention thus enables a user to select a
> particular location against which he or she desires to
> be authenticated. Thus, the user's account information
> may be retained at the non-native server domain in
> addition to (or instead of) the Windows NT server
> normally coupled to the Windows NT client in a closed
> manner. The user's single userid and password are
> then held out at a non-native server, such as a Warp
> Server, a DCE cell, or the like. This information may
> also be retained at a native server domain") [column 6
> lines 1-18];

Applicants note that the language used in the OA related to claim 1 has

been changed in the prior Amendment A. Namely, "providing access, depending

on the defined access rights, for at least one of the application program and

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sensitive data" used in claim 1 prior to Amendment A, and used by the Examiner in his discussion, has been previously changed to "providing access, depending on the defined access rights, for at least one of the application program and sensitive data" on p. 4 of the OA). This language now reads in the claim,

5   "providing access, depending on the defined access rights, for the accessible element *that has not been unloaded or restarted, by the second user*". This is a substantive distinction that merits consideration.

As discussed previously in Amendment A (discussion on p. 8–9), access to the accessible element is accomplished by a second user after access of the

10   accessible element by a first user without unloading or restarting the accessible element.

Dutcher does not address such a subsequent accessing by a first and second user. Dutcher deals with the issue of obtaining (for a particular user) access authorization where the access authorization may be native (e.g.,

15   Windows-based in a Windows environment) or non-native (UNIX-based in a Windows environment). It deals with the allocation of processes and procedures associated with a user's logon to a system within a domain. Dutcher deals with the situation of a single user and multiple authentication providers (domain drivers) (14:26–28). Although the system of Dutcher would naturally deal with

20   more than one user, it does not contain any disclosure with respect to the access of applications or application data by multiple users in the context of access authorizations, and contains no disclosure with regard to the maintaining of an

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application or respective data in memory after use by the first user for use by the

second user.

This distinction found in the present invention is not just an obvious variant

of what is disclosed in Dutcher, since the present invention advantageously

5   permits much greater speed and efficiency for multiple users with potentially

differing levels of authority and access privileges to access the large volumes of

data and applications that deal with them typically found within the medical

community—a problem that the system of Dutcher fails to address.

Although the Examiner did omit the word "second" (referring to a second

10   user) from the analysis of claim 1, Applicants presume that the Examiner

intended comments in the Response to Arguments section to provide his

reasoning for the omission when stating:

> It is noted that any computer system comprising user
> logon and authentication on a network comprises at
15   > least two or more users, hence the definition of a
> computer network.

Although Applicants certainly do not dispute the well-known fact that a

computer system dealing with authentication issues would strongly infer use by

more than one user, this is a long way from dealing with the security and data

20   access mechanisms along with the sequencing aspects being claimed here. Even

in the discussion of the prior art in the Specification, Applicants note the presence

of multiple users and the authentication methods known therefrom. But the

present invention requires more than just simply access by a first and second

user—it requires that the access be performed without an unloading and

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reloading (steps currently required in the prior art). The prior art systems are slow

because they require, in some way, an unloading or restarting of applications and

data by a second user—this is the very problem the present invention deals with.

Dutcher does not disclose any information related to a preceding (or "first")

5   user and a loading/restarting (or lack thereof, as required by the claims), with a

subsequent access by a second user. Disclosure for this element is completely

lacking in the teaching of Dutcher.

For this reason, Applicants assert that independent claim 1 and

independent claims 10 and 11 are not anticipated by Dutcher, nor are the claims

10   that depend therefrom by virtue of their dependence. Applicants respectfully

request that the 35 U.S.C §102 rejection be withdrawn from the application.

35 U.S.C. §103(a), Claims 6 Obviousness over Dutcher in view of Win

3.   The combination of Dutcher and Win fail to obviate claim 6 of the

present invention for the reasons argued above, and because Win does not

15   *disclose those features lacking in Dutcher.*

In the OA, on p. 16, the Examiner rejected dependent claim 6 based on

the combination of Dutcher and Win.

Applicants rely upon the above arguments with respect to claim 1, from

which claim 6 depends, and assert that Win does not provide any further

20   disclosure that would obviate the elements of claim 1 when used in combination

with Dutcher. Therefore, by virtue of the dependence of claim 6 on claim 1, claim

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6 is not obviated by the combination. Applicants note that Win is being utilized by

the Examiner for its teaching pertaining to elements of the dependent claim.

In the Response to Arguments section, on pp. 17–18, the Examiner stated

that the Applicants' argument was non-persuasive, since Win discloses the

5   additional element provided by claim 6. The Applicants neither agreed nor

disagreed with the Examiner's characterization of the teaching of Win or its

applicability to the additional claim 6 element, but instead relied upon prior

arguments pertaining to the other elements and the Dutcher reference.

For these reasons, the Applicant asserts that the amended claim language

10   clearly distinguishes over the prior art, and respectfully request that the Examiner

withdraw the §103(a) rejection from the present application.

CONCLUSION

Inasmuch as each of the objections have been overcome by the

amendments, and all of the Examiner's suggestions and requirements have been

15   satisfied, it is respectfully requested that the present application be reconsidered,

the rejections be withdrawn and that a timely Notice of Allowance be issued in

this case.

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Please charge any deficiencies or credit any overpayments with regard to
this application to Deposit Account No. 501519.

Respectfully submitted,

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